

**MOGALE CITY LOCAL MUNICIPALITY:
BY-LAWS RELATING TO PARKS AND OPEN SPACES,
MANAGEMENT OF TREES AND FACILITIES AT DAMS**

The Municipal Council hereby, in terms of Section 13 of the Local Government: Municipal Systems Act 32 of 2000 and Section 84(1)(p) of Local Government : Municipal Structures Act, 117 of 1998 publishes the By-Laws set forth hereinafter, which have been approved by the Council in terms of Sections 11 and 12 of the said Act.

These By-Laws are divided into chapters relating to the following matters respectively:

CHAPTER 1 - INTERPRETATION AND FUNDAMENTAL PRINCIPLES

CHAPTER 2 - MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

CHAPTER 3 - MANAGEMENT OF TREES

CHAPTER 4 - FACILITIES AT DAMS

CHAPTER 5 - GENERAL PROVISIONS IN TERMS OF PUBLIC OPEN SPACES

2. CHAPTER 1 – INTERPRETATION AND FUNDAMENTAL PRINCIPLES

In these By-Laws, unless the context otherwise indicates –

“adult” means any person of the age of 18 (eighteen) years or older;

“agricultural land” will mean land forming part of open spaces defined herein and utilized for agricultural purposes whether by the Municipality or other lawful occupiers thereof;

“animal” means any vertebrate;

“boat” means any vessel, punt, raft, canoe, windsurfer, moved or propelled by oars, poles, motors or sails or any combination thereof or any other floating object, irrespective of its propulsion mechanism and used to carry persons on water;

“conservation areas” will mean tracts of land demarcated by the Municipality of conservation purposes;

“dam” will mean the dams situated in the municipal area of the Municipality which are generally known as the Monument Dam, Pretoriuspark; the Noordheuwel Dam, Noordheuwel and Centenary Dam, Coronation Park and includes the walls of riparian land and surrounding areas, which are located on open spaces as herein defined;

“directorate” will mean the directorate of the Municipality which is in control of open spaces;

“fee” will mean a fee determined by the Municipality in terms of its Tariff By-Law in respect of any matter dealt with in this By-Law;

“garden” will mean any area of open spaces as herein defined demarcated by the Municipality as a garden;

“group” means for purposes of Chapter 2 of these By-Laws a body of persons whether incorporated or unincorporated;

“Municipality” will mean the Municipal Council of the Mogale City Local municipality, which is a municipal council as defined in the Local Government Municipal Systems Act 32 of 2000 and Local Government: Municipal Structures Act 117 of 1998.

“notice” will mean a clear visible notice in one or more official languages exhibited by or under the authority of the directorate;

“official” will mean any authorized official in the employment of the municipality who has been delegated with the powers to act upon any provision of this By-Law;

“park areas” will mean any area of public [or private] open space as herein defined which have been demarcated as such whether or not they are developed or undeveloped;

“Problematic Animals” includes any mammal, reptile, insect, bird or fish that has been introduced to any open space, dam, or river and is subsequently threatening the well being of the environment and/or causes any disturbance whether noise or odorous, health hazard or danger to any person adjacent to or visiting the open space

“Problematic tree” includes all trees declared as invaders under the Conservation of Agricultural Resources Act 43 of 1983 and other trees that have been declared by the Municipality as problematic due to specific characteristics that makes it unsuitable

“open spaces” will include, without derogating from the generality of the term:

- (a) developed park areas;
- (b) undeveloped park areas, duly zoned as such;
- (c) agricultural land whether owned by the Municipality or the State;
- (d) tracts of land whether owned by the Municipality or the State;
- (e) sidewalks and road islands;
- (f) public parking areas;
- (g) a dam and its environs;
- (h) any other tract of land with no determined use.
- (i) private open spaces

“vehicle” will mean any self propelled vehicle and includes

- (a) a trailer;
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed and adapted to be propelled by means of such pedals, engine or motor or both such pedals and engine or motor, but does not include:
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is pedestrian controlled; or

- (ii) any vehicle of a mass of not more than 230 kg and specially designed and constructed and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;
- (c) a cycle which includes any two, three or four wheeled motorbikes.

The male gender will include the female gender and vice versa and singular will include the plural and vice versa.

1.2 Application of By-Laws

- 1.2.1 These By-laws apply to every public open space, which falls under the jurisdiction of the Municipality, but do not apply to cemeteries.
- 1.2.2 These By-laws are binding on the State.

1.3 Purpose of By-laws

The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework-

- (a) to ensure that the way in which the Municipality controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Mogale City, including future generations; and
- (b) which clearly defines the rights and obligations of the public in relation to public open spaces.

2. CHAPTER 2 – MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

2.1 Principles of By-laws

- 2.1.1 Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –
 - (a) the long-term collective interests of the people of Mogale City, and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
 - (b) a long-term perspective, which takes account the interests of future generations, must be adopted; and
 - (c) the interests of other living organisms which depend on public open spaces must be taken into account.
- 2.1.2 Public open spaces must be managed in an environmentally sustainable manner.
- 2.1.3 Subject to the provisions of subsection 5.8, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- 2.1.4 If necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.

2.1.5 Access to a public open space may be restricted in a manner, which does not unjustifiably discriminate against any person or class of persons– if the restriction is,

- (a) authorised by these By-laws or by any other law; or
- (b) in order to achieve the purposes of these By-laws.

2.1.6 The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.

2.1.7 Local communities must be encouraged to use and care for public open spaces in their areas.

2.1.8 The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

2.2 Application of principles:

2.2.1 The public open space management principles set out in section 2.1, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998) and Protected Area Act, 57 of 2003, must be considered and applied by any person –

- a) exercising a power or function or performing a duty under these By-laws;
- b) formulating or implementing any policy which is likely to have a significant effect on, or which concerns the use of public open spaces within the Municipality's jurisdiction; or
- c) exercising a public power or function or performing a public duty which is likely to have a significant effect on, or which concerns the use of, public open spaces.

2.3 General powers of Municipality

2.3.1 The Municipality may in relation to any public open space –

- a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these By-laws may be undertaken, and display a prominent notice to this effect at every entrance to the designated area;
- b) develop any public open space in accordance with the principles set out in section 4;
- c) erect, construct, establish or demolish municipal property; and
- d) exercise any other power reasonably necessary for the discharge of the Municipality's obligations in terms of these By-laws relating to the management of public open spaces.

2.4 Fees

2.4.1 Any member of the public must pay –

- a) a prescribed fee to use recreational or other facilities which the Municipality provides within any public open space;

- b) a prescribed fee for entrance to any public open space which is significantly more expensive to maintain than other public open spaces, such as botanical gardens;
- c) a prescribed fee for the right to undertake a special event;
- d) a prescribed fee for the right to exclusively use municipal property for a specific period;
- e) a deposit prior to undertaking a prohibited activity permitted by the Municipality;
- f) an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- g) a prescribed fee for processing applications for permits or letters of permission under these By-laws, if such a fee or deposit has been determined by the Municipality.

2.5 Restricting access

2.5.1 The Municipality may restrict access to any public open space or to any part of a public open space for a specified period of time –

- a) to protect any aspect of the environment within a public open space;
- b) to reduce vandalism and the destruction of property;
- c) to improve the administration of a public open space;
- d) to develop a public open space;
- e) to enable a special event or to undertake any activity which the Municipality reasonably considers necessary or appropriate to achieve the purposes of these By-laws.

2.6 Powers of authorised officials

2.6.1 In relation to any public open space, an authorized official may –

- a) to the extent authorised by the Municipality administer, implement and enforce the provisions of these By-laws;
- b) issue a notice in terms of any provision of these By-Laws;
- c) instruct any person to leave a public open space if the authorized official reasonably believes that the person is contravening any provision of these By-laws, and fails to immediately terminate such contravention upon the instruction of that official; and
- d) if such official is a peace officer, exercise any power which may be exercised by a peace officer under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

2.7 Obligations in relation to public open spaces

2.7.1 The Municipality must within a public open space display any notice required under these By-laws.

2.7.2 In relation to recreational public open spaces, the Municipality must –

- a) ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and

b) prominently display a notice at every entrance indicating:

- (i) the opening and closing times of that recreational public open space; and
- (ii) any rules made by the Municipality in relation to that recreational public open space.

3. CHAPTER 3 – MANAGEMENT OF TREES

3.1 The obligations of the Municipality in terms of public trees will include:

- 3.1.1 Protection and preservation of park and street trees;
- 3.1.2 Protecting and preserving indigenous vegetation by maintaining its natural state and promoting its sustainability;
- 3.1.3 Promoting the planting of suitable (especially indigenous trees) on public and private property;
- 3.1.4 Informing and educating the community about the value of trees and discourage vandalism of trees;
- 3.1.5 Ensuring that Mogale City will develop into a green city, with a wealth of trees and natural vegetation;
- 3.1.6 Identifying, removing and controlling problematic plants;
- 3.1.7 Protecting water catchment areas from invader trees;
- 3.1.8 Replacing all trees that are removed with suitable alternatives.

3.2 The Municipality will not remove any tree unless:

- 3.2.1 the person requiring its removal has addressed a written application to the Deputy Director of Parks, identifying the tree to be removed and stating the reason for the request; and
- 3.2.2 a horticulturist appointed by the Municipality to be responsible for the removal of trees has investigated the application; and
- 3.2.3 the applicant has been advised in writing of the Municipality's decision; and
- 3.2.4 the applicant has paid the fee for the removal of the tree where applicable.

3.3 The requirement of 3.2 will also apply to the various departments of the Municipality and individual members of the Council and other state departments.

3.4 A tree located on a public open space or sidewalk will be removed free of charge by the Municipality, acting through its directorate, if:

- 3.4.1 The tree is dead or in the process of dying due to natural causes and for this reason proves to be dangerous to its surroundings
- 3.4.2 If the tree was hit by lightning and proves to be dangerous to its surroundings
- 3.4.3 If the tree has any structural defects in the main stem due to fire, bacteria or fungal disease or due to any accident and for this reason proves to be dangerous to its surroundings
- 3.4.4 If the tree is declared as a problematic tree
- 3.4.5 If the tree is hazardous to traffic and which cannot be corrected by pruning

- 3.4.6 If the Municipality has decided via a Mayoral Committee resolution that any tree is to be removed
- 3.4.7 If the tree is obstructing municipal development such as roads, storm water or power lines, provided that all cost effective and practical alternatives have been evaluated which could preserve the tree
- 3.4.8 If the tree is causing extensive damage to roads, buildings, dams or walls and if the damage is more than the tree's replacement and removal costs
- 3.4.9 If the tree is threatening to fall over

3.5 A fee for removal of a tree will be charged:

- 3.5.1 If the tree needs to be removed because of a proposed entrance to a property, new or additional parking, changes to the tree's environment, pedestrian walkway or any sort of building or development in the position of the existing tree.
- 3.5.2 If the tree needs to be removed because of underground developments such as power lines, sewer lines, water lines or communication lines;
- 3.5.3 If the tree needs to be removed because of damage caused by:
 - 3.5.3.1 negligent or intentional poisoning of a tree in addition to a fine not exceeding R5000-00 per tree and the value of the tree based on the standard tree valuation method used by the Municipality, if proven guilty.
 - 3.5.3.2 vehicle collision;
 - 3.5.3.3 vehicles and/or equipment moving or working in the vicinity of the tree.

3.6 A tree will only be removed after the fee for its removal, where applicable, has been paid to the Municipality.

3.7 Landmark tree preservation

- 3.7.1 The Municipality, acting through its directorate, will identify trees that will be protected and receive status of monuments and such trees will be placed on a Landmark Tree Data List
- 3.7.2 The monument status of a tree will be determined by the following factors:
 - 3.7.2.1 If the tree was planted by a celebrity, whether a political or non-political figure;
 - 3.7.2.2 If the tree is a rare and unique specimen as identified by the Municipality;
 - 3.7.2.3 If the tree has historical significance;
 - 3.7.2.4 If the tree is uniquely large and old in the landscape;
 - 3.7.2.5 If the tree is a protected indigenous species;
 - 3.7.2.6 If the tree is an internationally protected species;
 - 3.7.2.7 If it is part of an avenue of trees that is very old and unique.

3.8 Unaccepted reasons given for tree removal applications:

Trees will not be removed for the following reasons, although a combination of these factors might be considered, but in such a case it is likely that the tree that causes the problem is already a declared problematic tree. Therefore, if a tree is not a problematic tree, these reasons should be considered as unreasonable.

- 3.8.1 Trees that are shedding their leaves
- 3.8.2 Trees that are dropping fruits and flowers
- 3.8.3 Trees that are old
- 3.8.4 Trees that are over shading an area or buildings
- 3.8.5 Trees that are dripping/excreting glue, pollen or any natural substance. In the case where a person is suffering from an allergy, presumed that it is caused by any part or excretion of the tree, such person will be required to prove (by means of an allergy test) that he/she shows a positive allergenic reaction to the tree or product thereof. The Municipality will be entitled to request such laboratory results. To act on such a complaint is entirely left to the discretion of the Municipality.
- 3.8.6 Trees that are diseased.
- 3.8.7 Trees that are naturally growing skew (excluding trees that are in the process of falling over and/or threatens to do so
- 3.8.8 Trees that are poisoned and damaged. Trees will only be removed when the tree is completely dead unless it proves to be dangerous to its surroundings

In all of these cases the request for tree removal will be investigated thoroughly by the municipality and with due respect.

3.9 Pruning of trees on open spaces and sidewalks

- 3.9.1 Trees will be pruned at the request of any person, whether such request is made personally, telephonically or in writing.
- 3.9.2 The Municipality will do pruning according to arboricultural standards and will not entertain requests that deviates from these standards.

3.10 Street trees

- 3.10.1 A person may apply personally, telephonically or in writing for the planting of a tree on the pavement adjoining such person's property.
- 3.10.2 The Municipality will investigate the area for tree planting to determine the most appropriate tree species, the quantity and position of planting and advise the applicant in writing of the outcome of its investigation.
- 3.10.3 The Municipality will mark the planting position of the trees in a conspicuous manner.
- 3.10.4 The applicant will be responsible to dig the holes and plant the trees in a prescribed manner.
- 3.10.5 The Municipality will deliver the trees upon completion of the holes.
- 3.10.6 The Municipality will only supply trees that are in stock and does not undertake to comply with special requests.
- 3.10.7 Trees supplied by the Municipality remain the property of the Municipality and may not be removed or pruned without the permission of the Municipality.

3.11 Privately planted trees on sidewalks

- 3.11.1 Where any person plants a tree on a pavement or on an open space belonging to the Municipality with or without obtaining permission from the Municipality to do so, such tree will become the property of the Municipality when it has taken root.
- 3.11.2 Should the Municipality in its sole discretion deem the tree so planted as unsuitable for any reason, it may request the planter thereof to remove such tree and if the planter fails to do so, the Municipality will remove the tree.

3.12 Problematic trees

All trees declared as invaders by the Conservation of Agricultural resources Act, Act 43 of 1983 and its amendments, receive no protection from the Municipality. These trees must be removed over time and be replaced by indigenous trees.

The Municipality may add certain tree species to the list of problematic trees if the nature of the tree warrants such action. This must be preceded by a report from the Sub-Directorate of Parks Management in which such a declaration is recommended and subsequently approved by the Mayoral Committee.

4. CHAPTER 4 – FACILITIES AT DAMS AND RIVERS

- 4.1 A person may not place or use or cause or permit to be placed or used on a dam a boat unless a permit has been obtained therefore from the Directorate of Integrated Environmental Management and the fee has been paid.
- 4.2 Such permit will clearly specify the number of persons that may at any one time be transported on a boat and the person taking out such permit will retain it and present it to an authorized official of the Municipality when requested to do so.
- 4.3 The Municipality may at any time suspend a permit issued in accordance with these By-Laws and the Municipality will not be obliged to refund the fee paid.
- 4.4 The issuing of a permit will be at the sole discretion of the Municipality.
- 4.5 The Municipality has the right to refuse the issuing of such permit in respect of any boat if the Municipality or his duly authorized official is of the opinion that such boat is not in a proper and safe condition or if the dam or river is considered as unsafe for whatever reason. The Municipality may through its duly authorized official both before and after the issuing of any permit, enter into any boat and take any other steps, which such official may consider necessary for the purpose of inspecting any boat.
- 4.6 The Municipality reserves the right to prescribe and limit the number and type of boats that will at any stage be allowed on a dam.
- 4.7 No person being the owner of a boat, or having the use or control or being in possession or charge of any boat will at any one time permit the use of a boat by a number of persons in excess of the number stipulated on the permit.

- 4.8 No person will without the written permission of the Municipality transport any person for a fee on a boat. The Municipality may, when granting such permission:
- 4.8.1 impose any condition that it deems fit;
 - 4.8.2 determine the fee payable by such person
- 4.9 No person under the influence of intoxicating liquor or a narcotic drug may enter, remain in or occupy any boat on a dam, nor will any person in control of a boat allow any person under the influence of intoxication liquor or a narcotic drug to enter, remain in or occupy any boat
- 4.10 No sports or games will take place in or about a dam without the written consent of the Municipality acting through its directorate nor will any person take part in or assist at any sports or games on a dam which has not been approved by the Municipality acting through its directorate.
- 4.11 A person may not dive from a boat or swim in any dam or river.
- 4.12 A person may not board a boat if the owner or person in control of such boat does not supply him with a life jacket and any person in control of a boat, allowing another person without a life jacket on board a boat will be guilty of an offence.
- 4.13 A child under the age of 18 (eighteen) years will not embark upon a boat unless he remains under the constant supervision of an adult.
- 4.14 Indemnity
Any person who enters the environs of a dam or embarks on a dam does so at his own risk and the Municipality will not be held responsible or liable for any personal injury sustained by death of such person or loss of or damage to his property, save for instances where the Municipality has acted negligently in performing its duty to care for such person.
- 4.15 Angling
- 4.15.1 Angling will be permitted only from a specified shore of a dam and only at times and places determined by these By-Laws and displayed on notices affixed or erected on the shores of a dam.
 - 4.15.2 Persons who are not in possession of a Provincial Angling License will not be permitted to angle at a dam.
 - 4.16.3 The Municipality may at any time implement Angling permits over and above the Provincial Angling License for all the dams and rivers under its jurisdiction. The Municipality in terms of its Tarrif By-Law will determine the fees thereof. Angling clubs will also be required to pay the relevant fees for its members over to the municipality at a reduced rate as determined by the Municipality from time to time. The fees generated in this manner will be used to stock dams on an annual basis with suitable fish species. Persons who do not have the Local Angling Permit will not be permitted to angle at any dam or river.

5. CHAPTER 5 – GENERAL PROVISIONS IN TERMS OF PUBLIC OPEN SPACES

5.1 Animals

A person may not:

- 5.1.1 take into or have an animal in any public open space where a notice prohibiting the admission of animals is exhibited; or
- 5.1.2 bring or allow any animal in his charge to enter onto a public open space unless such animal is kept under proper control and effectually restrained from causing a noise or danger to any person; or
- 5.1.3 bathe or wash any animal or allow any animal under his charge or control to be washed in any pond, stream, fountain, ornamental water structure or dam;
- 5.1.4 leave any faeces deposited by an animal under his control in a public open space but will remove such faeces provided that this provision will not apply to a blind person being led by a guide dog or to grazing animals where a permit was issued for such purpose.

Grazing Animals:

- 5.1.5 Farmers, whether commercial or subsistence, may apply for a permit to use designated open spaces for animal grazing.
- 5.1.6 Applications for such permits will be submitted in writing to the Municipality.
- 5.1.7 The applicant will place a visible notice on the proposed site for a period of 30 calendar days, whereby comments or objections are invited. The relevant Directorate of the Municipality will then review comments and objections and resolve them where possible
- 5.1.8 A permit will then be issued under the following conditions:
 - 5.1.8.1 That the land in question is suitable for grazing in terms of vegetation, soil stability and gradient.
 - 5.1.8.2 That the numbers of animals not exceed the grazing potential benchmark of the land.
 - 5.1.8.3 That the permit be subject to an annual renewal.
 - 5.1.8.4 That the municipality has the right to withdraw such permit at any time without stating its reasons for this.
 - 5.1.8.5 That the applicant will be responsible for any damage to the land caused by the grazing animals.
 - 5.1.8.6 That the applicant will erect the necessary fences or provide supervision over the animals to ensure that they remain within the designated area to prevent them from becoming a nuisance.

5.2 Vehicles

A person may not:

- 5.2.1 drive, draw or propel any cycle, or vehicle other than a wheeled chair, or a perambulator drawn or propelled by hand and used solely for the conveyance of a child or children or invalid, on any public open space, except in the places and at the times which will be defined by these By-Laws or by notices affixed or set up at or near the entrance to any such public open space;
- 5.2.2 drive any vehicle on any open space that may have been set aside by notice at a specified date;
- 5.2.3 draw, propel, stand or place any vehicle upon or over any part of a flowerbed or lawn;

- 5.2.4 use any part of any public open space for the cleaning of a vehicle;
- 5.2.5 carry out repairs or maintenance to a vehicle in a public open space;
- 5.2.6 park a vehicle in a public open space at any other place than at the parking area specially set aside for vehicles;
- 5.2.7 drive a vehicle in a public open space while he is under the influence of alcohol or any narcotic drug.
- 5.2.8 use recreational vehicles such as “All Terrain Vehicles” (ATV or quad bikes), 4x4’s on any open space, road reserve or sidewalk, where no specific amenity provision is made for such a vehicle in the area in question. These vehicles are therefore prohibited to be used on any open space, road reserve or sidewalk unless the Municipality has clearly indicated with signage that such vehicles is permitted to these sites. The Municipality may in consultation with interested and affected parties set aside portions of land for use by ATV’s and 4x4 vehicles, but is not compelled to provide such facilities.

5.3 Play equipment

- 5.3.1 Where play equipment is provided in a developed park area for the entertainment of children such equipment will not be used by a person older than 16 (sixteen) years.
- 5.3.2 No child under the age of 16 (sixteen) years will use the play equipment except under the direct supervision of an adult.
- 5.3.3 The Municipality will not be held responsible or liable for any personal injury sustained by, or the death of any person using the play equipment, or loss or damage to his property arising out of the use of the play equipment unless the Municipality has acted negligently in performing its duty of care to such person.
- 5.3.4 The Municipality, acting through its directorate, will where possible erect appropriate notices to warn of dangers associated with the use of the play equipment, in the immediate vicinity of the play equipment and advise the maximum age of children permitted to use the equipment.
- 5.3.5 The Municipality will maintain the play equipment in a proper state of repair at all times.

5.4 Trading

- 5.4.1 No refreshments will be hawked or offered for sale on a public open space without written permission of the Municipality acting through its directorate;
- 5.4.2 No peddler or street vendor will be allowed to trade on a public open space without the written consent of the Municipality acting through its directorate;
- 5.4.3 No person may gamble, participate or present gambling or games of chance in a public open space without the written consent of the Municipality acting through its directorate.

5.5 General prohibitions

A person may not:

- 5.5.1 enter or leave a public open space which is enclosed except by one of the gates or openings provided for such purpose; or
- 5.5.2 enter or attempt to enter any public open space which is enclosed or any temporary enclosure on a public open space where entry is prohibited by notices affixed or set up at or near the entrance of such enclosed area or temporary enclosure or climb through or over any gate or fence; or
- 5.5.3 kindle a fire, except at braai facilities and provided that such fire may only be kindled with firewood or charcoal and no other combustible material may be used; or
- 5.5.4 leave unattended any fire which he has kindled before such fire is thoroughly extinguished; or
- 5.5.5 allow any fire which he has kindled to spread or cause injury; or
- 5.5.6 pursue, capture, hunt or kill game or birds of any kind by means of nets, hunting dogs, springs, guns, catapults, traps or snares, or in any other manner or set any nets, hunting dogs, springs, traps or snares or throw any missile with intent to injure or catch any bird or animal; or
- 5.5.7 rob or attempt to rob any bird's nest or disturb or remove any bird's nest; or
- 5.5.8 dig or excavate any trench, hole, pit or shaft; or
- 5.5.9 dig, excavate, take or remove any soil, sand, gravel, clay, sod, turf, mould, stones, minerals, water or their substances; or
- 5.5.10 remove, damage or climb up or upon any fountain, statue, monument, post, chain, railing, fence, seat, barrier, gate, lamp, lamp post, notice board or plate, house, building, shed, urinal, closet, flagmark, beacon, boundary mark or other article or thing or deface or disfigure the same by pasting or affixing in any way any bills, papers, placards or notices or by cutting, writing, stamping, printing, drawing, or marking thereon, or in any other manner whatsoever; or
- 5.5.11 cut, gather, take, remove, dig up, fell, burn, pluck, break, destroy, climb up or upon, or do damage or injury to any tree, fence, gate, fencing post, pole or plant; or
- 5.5.12 walk, stand, sit or lie on any flowerbed or damage any flowerbed; or
- 5.5.13 construct any dam in any existing stream on a public open space or interfere with or divert any water course or canal on a public open space; or
- 5.5.14 catch, angle for, injure or in any way interfere with any fish in any stream, pond, fountain or ornamental water feature located on a public open space; or
- 5.5.15 wash clothes or other things in any pond, stream, fountain or ornamental water feature on a public open space, or otherwise pollute the same or any water therein in any manner except where no potable water is available in the area for residents; or
- 5.5.16 dry clothes or other articles on a public open space; or
- 5.5.17 bathe himself or any other person or any animal, or allow any animal under his charge or control to be in any pond, stream, fountain or ornamental water feature located on a public open space; or

- 5.5.18 deposit, dump or leave any refuse, rubbish, paper, deceased animal or other matter or thing in a public open space; or
- 5.5.19 defecate or urinate in any place except in such places as are provided by the Municipality for that purpose; or
- 5.5.20 engage in or make preparation for playing cricket, football, hockey or any other game in an organized competition except on the grounds set apart for such game; or
- 5.5.21 pick or harvest plants or willfully or negligently damage or injure any plant or lawn in any manner whatsoever; or
- 5.5.22 occupy, reside on, break up, harrow, plough, work, sow, cultivate or cause to be occupied, resided on, broken up, harrowed, ploughed, worked, sown or cultivate any part of a public open space without the written consent of the Municipality acting through its directorate; or
- 5.5.23 erect any post, fence, tent, booth, screen, stand, swing, or other building, erection or obstruction of any kind whatsoever without the written consent of the Municipality acting through its directorate; or
- 5.5.24 discharge any firearm, air-gun, firework, catapult or sling, or throw any stone, stick or other missile or use any squirt, syringe or other instrument or do anything which may endanger or be deemed a nuisance, obstruction or annoyance to the public; or
- 5.5.25 obstruct, disturb, interrupt or annoy any person in the proper use of any part of a public open space; or
- 5.5.26 use or intrude upon any water closet, urinal or other place of convenience provided for the opposite sex; or
- 5.5.27 address, hold or take part in any public meeting or assembly or musical performance, which has not been authorized in writing by the Municipality acting through its directorate; or
- 5.5.28 assault, resist, aid or incite any person to assault or resist any employee of the Municipality or any other person in the execution of his duty or the lawful exercise of any authority under these By-Laws or otherwise; or
- 5.5.29 remain in any enclosed public open space after the time of closing the gates, or refuse to leave such place at any time when requested to do so by any employee of the Municipality; or
- 5.5.30 in any public open space, brawl, fight, use profane, indecent or improper language, play loud music in any way whatsoever, behave in an indecent or offensive manner, or commit any nuisance or be under the influence of intoxicating liquor or narcotic drugs.
- 5.5.31 Beg in a public open space;
- 5.5.32 Introduce or release into a dam any kind of fish or bird species without the prior approval of the Municipality acting through its directorate;
- 5.5.33 Bring into or ride in a public open space on a horse, mule, donkey, camel or any other beast of burden, except with the written consent of the Municipality, acting through its directorate.
- 5.5.34 Distribute any circular handbill or other advertisement in park areas
- 5.5.35 Reside on any public open space without the prior approval of the Municipality acting through its directorate;
- 5.5.36 Partake in any form of sexual intercourse or sexual activity on any public open space, exposing themselves in any nude or indecent manner, display or bring onto any public open spaces any pornographic material of whatever nature or sun bathe topless.

5.6 Penalties

Any person who contravenes any of the provisions of these By-Laws will be guilty of an offence and on conviction liable to a fine not exceeding R 10 000.00 (TEN THOUSAND RAND) or in default of payment, to imprisonment for a period not exceeding 6 (six) months or to such other sentence as a Court may deem appropriate.

5.7 Tariff of fees

The Municipality will determine from time to time, the fees charged in terms of these By-Laws in a tariff By-Law.

5.8 Rights of Municipality

- 5.8.1 The Municipality reserves the right to close a public open space or part thereof or to limit the use thereof to a particular group or organization for any special event but not exceeding a continuous period of 5 (Five) days;
- 5.8.2 The Municipality may by notices posted at or near entrance gates to enclosed public open spaces indicate the hours during which such public open space is closed to the public and may, for any special purpose close any public open space, or any part thereof, or any building therein, to the public for such time as it may from time to time consider necessary or expedient but not for an indefinite period;
- 5.8.3 The Municipality will be entitled to limit the number of visitors to a park area or other public open space.
- 5.8.4 The Municipality may convert a public open space into a private open space and charge entrance fees subject to the following of a public participation process.

5.9 Repeal of existing By-Laws

The following By-Laws are hereby repealed:

- 5.9.1 Townlands, Parks and Public Recreation Grounds By-Laws published under Administrator's Notice 100 dated the 18th February 1953.
- 5.9.2 By-Laws relating to Open Areas, recreation Areas and Facilities at Certain Dams published under Section 101 of the Local Government Ordinance 1939 (Ordinance 17 of 1939) on the 4th January 1989.

6. Recommended

It is recommended to the Municipal Council:

- 1.1 That the By Law related to Parks and Open Spaces, Management of Trees and Facilities at Dams be approved.
- 1.2 That the Directorate of Corporate Services facilitates the publication of the By-Law in the Government Gazette by April 2006
- 1.3 That the Directorate of Public Safety legalize the fine determination for contraventions of the By Law through the local Magistrate by May 2006
- 1.4 That the Directorate of Integrated Environmental Management implements the By-Law from June 2006.

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MUNICIPAL MANAGER

MS. I. MOKATE

Recommended/ not recommended

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DATE

.....
PORTFOLIO HEAD:

INTEGRATED ENVIRONMENTAL MANAGEMENT

CLLR: B. MANELI

.....
DATE

Recommendation approved/ not approved due to the following reasons:

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THE EXECUTIVE MAYOR:

ADV. L. MOKGATLE

APPROVED/ NOT APPROVED

.....
DATE